

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

JACKIE HUGHES and ANGELA )  
HAWKINS, individually and as Next )  
Friends of D.H., S.H., Sk.H., and I.H., )  
minor children, et al., )

Plaintiffs, )

-vs-

Case No. CIV-21-1094-F

STATE OF OKLAHOMA, ex rel. )  
THE DEPARTMENT OF HUMAN )  
SERVICES, et al., )

Defendants. )

**ORDER**

The court is in receipt of the Second Amended Complaint (doc. no. 10), filed January 31, 2022.

Prior to removal from state court, a first amended petition was filed as of right in state court. *See*, doc. no. 1-4. As such, plaintiffs may not file a second amended complaint in this court without first obtaining either written consent of the opposing parties or leave of court. *See*, Williams v. Homesite Insurance Company of the Midwest, 2020 WL 9209708, at \*1 (E.D. Penn. June 25, 2020) (plaintiff cannot file second amended complaint as of right pursuant to Rule 15(a)(1), Fed. R. Civ. P., having filed a first amended complaint in state court prior to removal) (citing cases).


In any event, the Second Amended Complaint was not filed within the 21-day period prescribed by Rule 15(a)(1)(B), Fed. R. Civ. P. Outside that prescribed

period, the Second Amended Complaint required either written consent of the opposing parties or leave of court.<sup>1</sup> *See*, Rule 15(a)(2), Fed. R. Civ. P.

Therefore, the Second Amended Complaint is **STRICKEN** without prejudice to refiling upon written consent of the opposing parties or leave of court.

Absent written consent or leave of court for plaintiffs to file a Second Amended Complaint, plaintiffs' responses to the pending motions to dismiss are due not later than February 18, 2022.

IT IS SO ORDERED this 3<sup>rd</sup> day of February, 2022.

  
STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE

21-1094p002.docx

---

<sup>1</sup> On November 18, 2021, the court granted plaintiffs leave to respond to defendants' motions to dismiss that were to be filed on December 15, 2021, by January 31, 2022, but, in doing so, did not grant plaintiffs leave to file a second amended complaint by January 31, 2022. *See*, doc. no. 5.